

**PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING
June 8, 2004**

PLACE: Room 206
Town Hall

TIME: 8:00 P.M.

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:
Damanti, Spain, Forman, Bigelow, Kenny

STAFF ATTENDING: Ginsberg, Keating

GENERAL MEETING

Chairman Damanti read the first agenda item:

Discussion, deliberation and possible issuance of a report regarding the following:

Mandatory Referral under Section 8-24 of the Connecticut General Statutes, Board of Selectmen, Cherry Lawn Park--120 Brookside Road. Proposing to fill and regrade to expand Casey Field, and perform related site development activities. The Cherry Lawn Park property is on the east side of Brookside Road directly across from its intersection with Overbrook Road, and is shown on Tax Assessor's Map #11 as Lot #31, R-1 Zone.

Mr. Damanti disclosed that subsequent to the Public Hearing, someone had sent him a packet containing documents. He opened the package and realized that it was regarding Cherry Lawn Park and this referral. He did not read the materials because the Commission had not yet issued its report.

Mr. Damanti emphasized that this is a referral for a report from the Planning & Zoning Commission and not an application. Mr. Damanti noted that a verified petition to intervene was submitted at the public hearing on June 1, 2004. The Commission acknowledges the receipt of the petition. He said that environmental issues are not the central focus of the referral for a report. Ms. Forman read the draft report aloud. Mr. Spain suggested inserting the word "so" for clarity. Mr. Damanti said that some of the issues raised during the public hearing are not within the charge of this report.

Mr. Spain then made a motion to adopt and issue the report as modified this evening. That motion was seconded by Mr. Kenny and all voted in favor of the motion except for Mr. Bigelow who abstained, as he was not at the public hearing on this matter. The motion passed by a vote of 4 – 0 – 1. The report is as follows:

**DARIEN PLANNING AND ZONING COMMISSION
C.G.S. SECTION 8-24 MANDATORY REFERRAL REPORT
CHERRY LAWN PARK, 120 BROOKSIDE ROAD
JUNE 8, 2004**

Mandatory Referral under Section 8-24 of the Connecticut General Statutes, Board of Selectmen, Cherry Lawn Park--120 Brookside Road. Proposing to fill and regrade to expand Casey Field, and perform related site development activities. The Cherry Lawn Park property is on the east side of Brookside Road directly across from its intersection with Overbrook Road, and is shown on Tax Assessor's Map #11 as Lot #31, R-1 Zone.

The Commission notes the issues raised in the Verified Petition to Intervene submitted by the Friends of Cherry Lawn Park on June 1, 2004, and grants said Petition to Intervene. These issues focus on environmental matters, which are not the central focus of a report under Section 8-24 of the Connecticut General Statutes. Nonetheless, while these issues may not be appropriate in this forum, these issues were considered when preparing this report.

This referral is related to a proposed expansion of a field within an existing public park. A public park is a Permitted Principal Use specifically allowed under Section 402 of the Darien Zoning Regulations. The subject area is now a sports field, and has been for at least 10 years (prior to the 1995 Town Plan of Development) and through to today. The 1995 Town Plan of Development specifically recommends the expansion of Casey Field on pages 82, 83 and 146. The 1996 Darien Parks, Recreation, and Open Space Plan also specifically recommended the expansion of Casey Field.

The Planning & Zoning Commission is familiar with this project, since on January 13, 2004, they approved Land Filling & Regrading Application #111 for the same activity. In that approval, there were a number of conditions, one of which on pages 3 and 4 of that Adopted Resolution is as follows:

- D. The Commission recommends that the Park and Recreation Director continue to monitor the parking situation within the Park. Careful permitting shall occur to minimize parking conflicts. When granted (sic) permits to use the Park, the Park and Recreation Director should consider the number of activities occurring at once and attempt to space them out, so as to minimize parking and traffic impacts. This shall include leaving adequate time between games occurring on Casey Field.*

In the public hearing process as part of that previous application and during the public hearing as part of this report request, there were concerns raised regarding traffic and safety. The Commission again notes that it is important for the Park and Recreation Commission/Department to manage the usage of the park so as to minimize parking and traffic impacts, so as to prevent unreasonable congestion or public safety problems.

For the foregoing reasons, the referred use is consistent with the 1995 Town Plan of Development.

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Chairman Damanti read the next agenda item:

Special Permit Application #73-B, Coastal Site Plan Review #192, Flood Damage Prevention Application #204, Darien Boat Club, Pear Tree Point Beach, 135 Pear Tree Point Road.
Proposing to expand the existing deck on the south and west sides of the locker house and perform related site development activities within regulated areas. The subject property is located on the west side of Pear Tree Point Road, approximately 300 feet south of its intersection with Crane Road, and is shown on Tax Assessor's Map #60 as Lot #45, R-1 Zone.

Mr. Damanti abstained from participation in this matter, as he had recused himself from the public hearing. Mr. Kenny made a motion to waive the reading of the Resolution aloud as Commission members had received the Resolution last week. Mr. Bigelow seconded that motion and it was approved by a vote of 4 to 0 to 1 (Mr. Damanti) abstained from voting.

There was a question about membership, which is Item B in the Resolution. Mr. Spain then suggested changes to Item B. Mr. Spain confirmed that expansion of the decking will not pose any increase of intensity of use. It was noted currently there is no numerical limit on the number of members. Mr. Kenny confirmed that this was the case. Ms. Forman then made a motion to approve the resolution as modified this evening. That motion was seconded by Mr. Kenny and approved by a vote of 3 to 0 to 2 with Mr. Bigelow abstaining and Mr. Damanti having recused himself. The adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 8, 2004**

Application Number: Special Permit Application #73-B
Coastal Site Plan Review #192
Flood Damage Prevention Application #204

Tax Assessor's Map #60 Lot #45

Name and Address of Applicant: Darien Boat Club
PO Box 121
Pear Tree Point
Darien, CT 06820

Name and Address of
Property Owner: Town of Darien
2 Renshaw Road
Darien, CT 06820

Name and Address
of Applicant's Representative: Michael R. Cassone PE
4 Catherine Street
Darien, CT 06820

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Activity Being Applied For: Proposing to expand the existing deck on the south and west sides of the locker house and perform related site development activities within regulated areas.

Property Location: The subject property is located on the west side of Pear Tree Point Road, approximately 300 feet south of its intersection with Crane Road.

Zone: R-1 Zone

Date of Public Hearing: May 25, 2004 continued to June 1, 2004

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: May 13 & 20, 2004

Newspaper: Darien News-Review

Date of Action: June 8, 2004

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
June 17, 2004

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810, 820, and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

- A. The application proposes to expand the existing deck on the south and west sides of the locker house and perform related site development activities within regulated areas. The Boat Club is a Special Permit use within the R-1 (residential) Zone.
- B. After examination, the application does not propose any change in intensity of use.
- C. At the public hearing on this matter, it was noted that the Board of Selectmen were still considering possible expanded land area for use by the Club. Those changes are separate and distinct from this application to expand the deck.

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- D. The Zoning Board of Appeals granted variances for this project as part of Calendar No. 23-2004. That approval is hereby incorporated by reference.
- E. The proposed activities, as modified herein, will have no adverse impacts on flooding and, therefore, this proposal is consistent with the need to minimize flood damage.
- F. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
- G. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
- H. The potential adverse impacts of the proposed activity on coastal resources are acceptable.
- I. The proposed activity is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures that would mitigate any adverse impacts by the proposed activity on coastal resources.
- J. The nature of the proposed changes and uses are such that the project will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
- K. The location and size of the use conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.

NOW THEREFORE BE IT RESOLVED that Special Permit #73-B, Coastal Site Plan Review #192, and Flood Damage Prevention Application #204 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- 1. Construction of the deck shall be in accordance with the plans entitled:
New Deck Location Darien Boat Club dated 31 January 2004.
New Deck Plan for Darien Boat Club, dated 1/30/2004 (4 sheets).
Darien Boat Club, Utilities.
The Darien Boat Club Deck Expansion, Soil and Sediment Control Plan, March 15, 2004.
- 2. The granting of these Permits does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. This includes, but is not limited to, a Structures, Dredging, and Fill Permit from the Office of Long Island Sound Programs at the State DEP.
- 3. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false,

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deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke these permits as it deems appropriate.

4. These permits shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (June 7, 2005). This may be extended as per Sections 815 and 829f.

All provisions and details of the plan, as approved, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final plans by the Chairman. All completed requirements and materials shall be submitted to the Planning and Zoning Department within 60 days of this action, and a Special Permit form filed in the Darien Land Records within that 60 day period, or this approval shall become null and void.

Chairman Damanti read the next agenda item:

Land Filling & Regrading Application #119, William & Trish Coleman, 134 Nearwater Lane.

Proposing to fill and regrade portions of property associated with the construction of a new driveway, in-ground swimming pool and spa with patio, and an addition to existing residence and perform related site development activities. The subject property is located on the east side of Nearwater Lane, approximately 125 feet south of its intersection with Juniper Road, and is shown on Tax Assessor's Map #57 as Lot #22, R-1 Zone.

Mr. Ginsberg explained that the plans were revised to only involve a portion of the driveway. The circular driveway in the front of the property and the portion of the regrading in the rear are no longer part of the application. Mr. Bigelow then made a motion to waive the reading of the Resolution aloud. The motion was made, seconded by Mr. Kenny and unanimously approved. Mr. Bigelow then made a motion to approve the project and adopt the Resolution as modified this evening. That motion was seconded by Mr. Kenny and unanimously approved. The Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 8, 2004**

Application Number: Land Filling and Regrading Application #119

Tax Assessor's Map #57 Lot #22
Street Address: 134 Nearwater Lane

Name and Address of Property Owner: William & Trish Coleman
134 Nearwater Lane
Darien, CT 06820

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Name and Address of Applicant &
Applicant's Representative:

Brandon Jones
GlenGate Company
644 Danbury Road
Wilton CT 06897

Activity Being Applied For: Proposing to fill and regrade portions of property associated with the construction of a new driveway, in-ground swimming pool and spa with patio, and an addition to existing residence and perform related site development activities.

Property Location: The subject property is located on the east side of Nearwater Lane, approximately 125 feet south of its intersection with Juniper Road.

Zone: R-1 Zone

Date of Public Hearing: April 27, 2004 continued to May 25, 2004

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: April 15 & 22, 2004

Newspaper: Darien News-Review

Date of Action: June 8, 2004

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
June 17, 2004

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed activities must comply with all provisions of Sections 400, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The application involves a proposal to relocate and rebuild the driveway and perform related site development activities. The grade of the existing driveway is approximately 13%. The grade of the new driveway will be about 9%.

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2. At the April 27th public hearing, significant concerns were mentioned by the Commission and adjoining property owners regarding the possible effects of the filling and regrading. Revised plans were submitted in May addressing those concerns. Those revised plans reflect the elimination of the spa; the reduction of the swimming pool to 225-250 square feet; modification of the patio in the front of the house; elimination of regrading in the rear of the property; and elimination of the circular driveway in front of the house.
3. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
4. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Land Filling & Regrading Application #119 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. The filling and regrading shall be in accordance with the following plans submitted to the Commission:
 - The Coleman Residence Master Plan by Glen Gate Company, scale 1/8"=1', dated 5/13/04 and last revised 5/14/04, Drawing MP-1.
 - Plan prepared for Patricia Coleman, Site Development Plan 134 Nearwater Lane, by McChord Engineering Associates, Inc., last revised 5-25-04, Drawing No. SE1.

These plans reflect the changes noted above in Item #2, which eliminates the spa, regrading in the rear of the property and a circular driveway in the front of the house.

Any further requests for such activities will require subsequent permits and approvals from the Planning & Zoning Commission.

- B. Due to the minor nature of the project, the Planning and Zoning Commission will not require a Performance Bond, however the Public Works Department may require a Performance Bond for any work within the Nearwater Lane right-of-way.
- C. During the filling and regrading project, the applicant shall utilize sediment and erosion controls to properly manage storm water runoff and to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- D. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.

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- E. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- F. This permit shall be subject to the provisions of Section 858 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (June 7, 2005). This may be extended as per Section 858.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

Chairman Damanti read the next agenda item:

Special Permit Application #236, William & Carol Layfield d/b/a Melting Pot, Darien; 14 Grove Street. Proposing to establish a restaurant within a portion of the three-story building within the Grove Street Plaza project. The subject property is on the north side of Grove Street 30 feet northeast of its intersection with Brook Street, and is shown on Tax Assessor's Map #73, as Lot #22, in the CBD Zone.

Mr. Bigelow then made a motion to waive the reading of the draft Resolution aloud. That motion was seconded by Mr. Spain and unanimously approved. Mr. Kenny then asked about the timing for rededicating the railroad parking in the Grove Street parking lot for re-use. Mr. Ginsberg explained that he spoke to the property owner, Penny Glassmeyer, earlier today. She is hoping to pave her parking lot and the adjacent parking lot in August. He explained that per the Commission's adopted Resolution in Business Site Plan #234-A, Ms. Glassmeyer is required to give three weeks notice to the Board of Selectmen so they can notify people who normally park in the Town owned parking lot. He explained that Ms. Glassmeyer will likely proceed with a tenant fit-up sometime after August with first occupancy of the building scheduled for sometime after November 2004.

Mr. Kenny then asked about basement use within her previously approved buildings. Mr. Ginsberg responded that the basement was originally approved for storage only and that they currently have approval for three stories of active use. The Commission members all felt that it is important to stay consistent with the previous approval and not allow the basement to be used for anything other than storage. Mr. Ginsberg noted that there are a variety of options to address Mr. Layfield's need for office space: one could modify the first floor layout; one could rent office space on the second floor of this building or Mr. Layfield could find office space elsewhere within Darien. Mr. Spain reviewed what is allowed in the basement and had minor clarifications on the draft Resolution. Mr. Kenny then made a motion to approve the Resolution as modified. That motion was seconded by Ms. Forman and unanimously approved. The adopted Resolution reads as follows:

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**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 8, 2004**

Application Number: Special Permit Application #236

Street Address: 14 Grove Street

Tax Assessor's Map #73 as Lots #21, #22, #23, and #24

Name and Address of Applicant: William & Carol Layfield d/b/a The Melting Pot, Darien
725 Belmont Road
Ridgewood, NJ 07450

Name and Address of Property Owner: Grove Street Plaza, LLC
26 Searles Road
Darien, CT 06820

Name and Address of
Applicant's Representative: William J. Hennessey, Jr., Esq.
Sandak Hennessey & Greco LLP
970 Summer Street
Stamford, CT 06905

Activity Being Applied For: Proposing to establish a restaurant within a portion of the three-story building within the Grove Street Plaza project.

Property Location: The subject property is on the north side of Grove Street 30 feet northeast of its intersection with Brook Street.

Zone: CBD Zone

Date of Public Hearing: May 25, 2004

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: May 13 & 20, 2004

Newspaper: Darien News-Review

Date of Action: June 8, 2004

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
June 17, 2004

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 650 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.

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- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to establish a fondue restaurant (including a bar/waiting area) of approximately 4,013 square feet on the first floor of the three-story building now under construction. A restaurant is a Special Permit use within the CBD Zone. The applicants also propose to use a portion of the basement level of the building for related storage. Approximately 1200-1300 square feet of the basement will be used for storage of food, liquor, and files related to the restaurant use.
2. As part of application Business Site Plan #234-A/Special Permit, two buildings on site were approved. One of the findings of the Planning and Zoning Commission in that approval was that "...the application does not include a proposal for a restaurant. Thus, any future proposal for a restaurant or food service use in either of the two proposed buildings will be the subject of a separate Special Permit application to the Planning and Zoning Commission."
3. As part of that approval, land has (or soon will be) given to the Town for permanent use as a public parking area. Under Section 1057 of the Darien Zoning Regulations, this exempts this project from the normal applications of the Parking Regulations.
4. Business Site Plan #234-A/Special Permit also noted the following: "All dumpsters and transformers are specifically designed to be on the property of Grove Street Plaza, LLC. Therefore, their maintenance will be the sole responsibility of Grove Street Plaza, LLC, or any subsequent owners. The Town of Darien will not accept responsibility for maintenance of trash removal or the condition of the dumpster enclosures."
5. At the public hearing on this matter, the applicant's representative noted that there were many operational advantages to having an upscale fondue restaurant at this site compared to a typical restaurant. These include: cooking done at the tables rather than in a kitchen; a smaller than usual kitchen; less food waste; less turnover of clients than a typical restaurant; less trash generated than a normal restaurant; and no weekday or Saturday lunch hours, thereby minimizing parking conflicts during those days and times. These operational advantages minimize parking, traffic, and trash removal impacts on the site and its immediate environs.
6. As noted by the comments from Sewer Services, a grease trap is required for this project.
7. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.

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8. The elements of the Site Plan, submitted as part of the Special Permit application accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.
9. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.
10. The nature of the proposed changes and uses are such that the project will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.

NOW THEREFORE BE IT RESOLVED that Special Permit Application #236 is hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction and use shall be in accordance with the following plans as required to be revised herein:

- The Melting Pot A Restaurant Project for Wil Layfield at Grove Street Plaza by FWH Architects, dated 04.12.04.

Contrary to the original approved use of the basement as storage only, the submitted floor plan now shows a food preparation area, a rest room, and an office in the basement. Final plans shall be revised to remove the rest room, food preparation area and office. The only allowed use in the basement is storage and specifically no food preparation, office, rest rooms, employee lockers or other use is permitted.

- B. The proposed, and herein approved, restaurant use is limited to The Melting Pot, Darien as described in the application materials and at the public hearing. It is a unique type of restaurant that should function well, given the constraints of this particular site. This approval is not for a restaurant or bar in general, but is limited to that which was specifically proposed. Changes in the operation with respect to food preparation; cooking facilities; distribution of seating or floor area devoted to the dining area, bar/waiting area, kitchen, storage, etc; or other aspects of the use are not permissible without prior approval from the Commission.
- C. The maximum hours of operation of the restaurant, as proposed within the submitted application materials, shall be from 5pm-10pm Monday through Thursday; 5pm-11pm Friday and Saturday; and 2pm-9pm Sundays. Any change in the maximum hours requires prior review and action by the Planning & Zoning Commission as an amendment of this Special Permit. Expanded hours might not be acceptable due to the limited, shared parking situation.
- D. The application materials submitted by the applicant note a request for indoor seating for 164 people—144 dining guests, and 20 barstools within the bar/waiting area. The Commission hereby approves seating for a maximum of one hundred and sixty four (164) patrons. No outside dining has been requested and none is allowed. Any increase in seating would need prior review and action by the Planning & Zoning Commission as an amendment of this Special Permit, and might not be acceptable due to the limitations of the site.

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- E. The applicant shall contract for removal of recyclables and trash from the dumpster area as often as necessary, and shall make reasonable efforts to schedule such collections to avoid nuisance to the nearby residents and avoid conflicts with the parking needs of adjacent businesses.
- F. Because of this restaurant's location immediately adjacent to a residential area (Clock Hill Homes), it is imperative that odor be controlled and minimized so as not to become a nuisance.
- G. Proposed signage for the business shall be designed to comply with the applicable Zoning Regulations and is subject to review and action by the Architectural Review Board and the necessary Zoning Permit.
- H. All site improvements and construction and landscaping shown on the revised and approved plans as part of the Business Site Plan #234-A shall be completed prior to the use or occupancy of the proposed subject building.
- I. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- J. The granting of this Special Permit approval does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes, but is not limited to the installation of a grease trap of suitable size and design, and final clearance from the Health Department prior to the issuance of a Zoning Permit for this project.
- K. This permit shall be subject to the provisions of Section 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (June 7, 2005). This may be extended as per Section 1009.

All provisions and details of the plan, as required to be amended herein, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. Final revised plans and all other required documentation shall be submitted to the Planning and Zoning Department within 60 days of this action or this approval shall become null and void.

Chairman Damanti read the next agenda item:

Special Permit Application #60-G, Flood Damage Prevention Application #208, Land Filling & Regrading Application #121, Country Club of Darien, 300 Mansfield Avenue. Proposing to excavate and enlarge existing pond, and place fill in two upland locations within the golf course, and perform related site development activities within a regulated area. The subject property is located on the east side of Mansfield Avenue, approximately 1,250 feet south of its intersection with Middlesex Road, and is shown on Tax Assessor's Map #5 as Lot #40, R-2 Zone.

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Mr. Damanti recused himself from this matter as he did during the public hearing. Mr. Spain then chaired the meeting. Mr. Bigelow then made a motion to waive the reading of the draft Resolution. Ms. Forman then seconded that motion which was approved by a vote of 4 to 0.

Mr. Bigelow noted that at the public hearing there was discussion regarding the stone wall on the southern property line adjacent to the Dwyer property. Mr. Ginsberg responded that the applicant is working on resolving this issue. Mr. Ginsberg also noted that the public hearing regarding the staff housing has been continued to July 13, 2004. Mr. Ginsberg is optimistic that the stone wall issue will be resolved before that public hearing. Mr. Kenny was very concerned that the Country Club of Darien's failure to reconstruct a stone wall as promised to adjacent property owner required that that adjacent property owner hire an attorney. He was wondering if there was any way for the Club to reimburse Ms. Dwyer for her attorney's costs.

Although the Commission believed that the pond dredging project is an approvable application. They then commented on page 2 of the Resolution. They noted that if the property is ever subdivided in the future, storm water management and the maintenance of the pond and its outflow would be a concern. There is need for active management and maintenance of the pond and its outflow. Ms. Forman then made a motion to adopt the Resolution as modified this evening. That motion was seconded by Mr. Kenny and approved by a vote of 4 to 0. The report read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 8, 2004**

Application Number: Special Permit #60-G
Flood Damage Prevention Application #208
Land Filling & Regrading Application #121

Tax Assessor's Map #5 Lot #40

Name and Address of Property Owner: Country Club of Darien
300 Mansfield Avenue
Darien, CT 06820

Name and Address of Applicant: Ken Koch, Manager
Country Club of Darien
300 Mansfield Avenue
Darien, CT 06820

Name and Address of
Applicant's Representative: Stephen Pierson, Esq.
Pierson Law Firm
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Activity Being Applied For: Proposing to excavate and enlarge existing pond, and place fill in two upland locations within the golf course, and perform related site development activities within a regulated area.

Property Location: The subject property is on the east side of Mansfield Avenue approximately 1,200 feet south of its intersection with Middlesex Road.

Zone: R-2 Zone

Date of Public Hearing: May 25, 2004

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices

Dates: May 13 & 20, 2004

Newspaper: Darien News-Review

Date of Action: June 8, 2004

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: June 17, 2004

Newspaper: Darien News-Review

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 820, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to excavate and enlarge an existing pond (the large pond adjacent to Fairway #4), and place the excavated fill material in two upland locations within the golf course, and perform related site development activities within a regulated area.
2. This project has been approved by the EPC on August 1, 2001 (EPC #42-2001) and the State of Connecticut Department of Environmental Protection (DEP). This project will be actively managed by the applicant per these approvals. Those approvals were submitted for the record, and are hereby incorporated by reference.

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3. The proposed activities, to be implemented with the conditions listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage. The proposed activity will have no adverse impacts on flooding on adjacent properties.
4. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
5. The nature of the proposed use is such that the project will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
6. The location and size of the use conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.

NOW THEREFORE BE IT RESOLVED that Special Permit #60-G, Flood Damage Prevention Application #208 and Land Filling & Regrading Application #121 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Work shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
 - Country Club of Darien, Irrigation Pond and Wetlands Expansion Pond Site Plan, by Stearns & Wheler, Sheet SP-1, last revised 25FEB03.
 - Country Club of Darien, Irrigation Pond and Wetlands Expansion Site Details, by Stearns & Wheler, Sheet SP-2, last revised 25FEB03.
 - Country Club of Darien, Irrigation Pond and Wetlands Expansion Erosion Controls, by Stearns & Wheler, Sheet SP-3, last revised 12FEB03.
- B. As noted by the applicant, this application proposes no change or increase in the uses, activities or membership in the Country Club of Darien. Any such proposals would require an amendment of the Club's Special Permit, and action by the Planning and Zoning Commission.
- C. Due to the nature of the project, and the fact that all activity will occur solely on the applicant's property, the Planning and Zoning Commission will not require a Performance Bond.
- D. During construction, the applicant shall utilize any sediment and erosion control measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- E. The granting of this Permit does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.

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- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- G. This permit shall be subject to the provisions of Section 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (June 7, 2005).

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action or this approval shall become null and void.

Mr. Damanti then rejoined the Commission, chaired the meeting, and read the next agenda item:

Requested Amendment of Flood Damage Prevention Application #151-C, James & Jodie Bishop, 22 Brush Island Road.

Request to amend previous approvals by installing an underground propane tank within a regulated area.

Mr. Ginsberg noted that further information was obtained regarding the propane tank. There is a June 2nd letter from an engineer, a letter from the Deputy Fire Marshal and information from Suburban Propane. Mr. Kenny then made a motion to approve the installation of a propane tank on the Bishop property with the conditions that it comply with all local and state regulations regarding propane tanks and as proposed by the applicant. That motion was seconded by Mr. Bigelow and unanimously approved.

Chairman Damanti read the next agenda item:

Administrative Review per Section 339, 174 Mansfield Avenue, LLC, 174 Mansfield Avenue.

Request to divide property into a front lot and a rear lot with a narrow access strip of land.

Mr. Ginsberg and Mr. Keating reviewed the submitted map and photographs with the Commission. The noted that the application is to install a driveway to a newly created rear lot behind the existing house at 174 Mansfield Avenue. The Commission noted the existing location of trees to be removed and mentioned that the area behind 174 Mansfield is flat, dry land and perfectly appropriate for development. Ms. Forman then made a motion to approve the request as submitted. That motion was seconded by Mr. Spain and unanimously approved.

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Special Permit Application #221-B, Sprint Spectrum, Tower Drive, R-2 Zone.

Request for extension of temporary Certificate of Compliance.

The Commission members reviewed the submitted letter from Laura McGeechy of Cacace, Tusch & Santagata. The Commission members noted that the tower will be painted, however good weather is needed to complete the work. On a motion by Mr. Bigelow, seconded by Ms. Forman, the Commission then unanimously approved the request to extend the temporary Certificate of Compliance to July 2, 2004.

Any Other Business (requires two-thirds vote of Commission).

Ms. Forman made a motion to go into other business to discuss the following two items. That motion was seconded by Mr. Kenny and unanimously approved.

1. **Grove Street Plaza, LLC, Grove Street:** Mr. Ginsberg then updated the Commission on the recent request from Penny Glassmeyer to remove the elm tree which was proposed to be saved along Grove Street. Mr. Ginsberg explained that Ms. Glassmeyer has had an arborist visit the site and mentioned that the tree is dieing and should be removed. Mr. Ginsberg said that the Commission has two options: 1) to put a tree in the same place, or 2) to reconfigure the driveway to add two parking spaces. The general consensus of Commission members was that they would prefer to have a new tree in place of the existing elm tree, but there needs to be cooperation from the Public Works Department and a certification from the arborist that the existing elm tree is dieing. The Commission instructed Mr. Ginsberg to work directly with Ms. Glassmeyer on finding an appropriate replacement for the elm tree. That motion was made by Mr. Bigelow, seconded by Ms. Forman and unanimously approved.
2. **Pending litigation and associated legal fees.** Mr. Ginsberg noted that he will be meeting with the Board of Finance and RTM in the near future to discuss a transfer to address legal fees. Mr. Bigelow then made a motion to go into Executive Session to discuss pending litigation, and to have Mr. Ginsberg and Mr. Keating attend that Executive Session to discuss that pending litigation with the Commission. That motion was seconded by Mr. Kenny and unanimously approved. During the Executive Session, which lasted 15 minutes, no motions were made and no actions were taken. The Commission then resumed its regular general meeting.

Chairman Damanti read the next agenda item:

Subdivision Application #604, Dana Arnold, 45 Phillips Lane. Proposing to demolish the existing residence and subdivide the existing 1.23-acre property into three lots and an open space parcel. The subject property is located on the southwest side of Phillips Lane, approximately 1,120 feet west of its intersection with Hoyt Street, and is shown on Tax Assessor's Map #25 as Lot #113, R-1/3 Zone.

The Commission then reviewed the plans submitted during the application process. They noted that potentially larger homes could be constructed under a standard three lot conventional subdivision. The Commission noted that one potential option is for the side yards under a

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conservation subdivision to be the standard setbacks, however the lot to be a little more narrower and to have a reduced buildable area. This may address the neighborhood concern about character and the size of the houses while still allowing for proper separation of the houses. There was also further discussion about having maximum peak of roofs on certain lots because the property is so much higher than the adjacent land and having 15 foot side yards immediately adjacent to the neighboring property owners to allow them to have additional space between the new houses and their existing houses. The Commission instructed staff to draft a Resolution reflecting their comments for the Commission's review in July.

There being no other business, the meeting was adjourned at 10:05 p.m.

Respectfully submitted,

David J. Keating
Assistant Director of Planning